

MOTION FOR SUMMARY DECISION

stockholders. Dr. and Mrs. Baker will provide from their considerable personal finances all funds for Radio's proposed stations. They are also Directors for Golden Rule Organization Workshop, Blountville Educational Associates, Inc., Martinsville Community Workshop, Inc. and Granville-Vance Community Radio, Inc., and will provide financing for stations to be constructed and operated by those organizations. Edward A. Baker will furnish no funding for any of the aforementioned stations.

Radio has been granted construction permits for the following:

WPAR(FM), Hickory, NC¹
WXRI(FM), Winston-Salem, NC
WPVA(FM), Waynesboro, VA
WPVB(FM), Culpeper, VA
WPIR(FM), Bluefield, WV
WPIB(FM), Salem, VA
WPKW(FM), Dublin, VA

Radio has pending applications for:

Asheboro, NC
Point Pleasant, WV
Union City, IN
Oxford, NC

Dr. and Mrs. Baker are also Directors of:

Granville-Vance Community Radio, Inc. (application pending)
Martinsville Community Workshop, Inc. (construction permit)
Blountville Educational Association, Inc. (construction permit)

In addition, although not previously raised in this proceeding, the Bakers will complete construction of the following

¹ The Hickory station has been in operation for approximately 5 years. There is an outstanding construction permit to increase power, but that permit will be returned for cancellation. Cost of new construction would have been \$42,900, well within the Radio budget and available funds.

commercial stations: WBGs-AM and WBYG-FM, Point Pleasant, WV; WTGR-FM, Union City, OH; and WCQR-AM, Fairlawn, VA.

The Bakers are experienced broadcasters, and over the past 25 years have built and operated numerous radio stations, principally in the southwest Virginia-North Carolina area. They are thoroughly familiar with costs of equipment and construction. They have developed sources of transmitters, antennas, towers and studio equipment, both new and used, where the best prices, terms, and availability can be secured. They have used this knowledge in the past and are now using it to construct the stations for which they have received permits and will use it in the case of pending applications. In addition, they have over the years accumulated equipment in good useable condition which can be used by their proposed stations. The wealth of experience they bring to bear is an invaluable asset in construction and operating both educational and commercial radio stations. In the case of each station, the Bakers have estimated costs of construction and operation, to determine whether they had adequate finances to proceed.

Attached hereto as Exhibit A is a list of estimates of all costs to complete construction for each of the aforementioned educational stations. The sum for all is \$497,107.

Exhibit B is a list of costs to complete construction for the commercial stations the Bakers will build and operate. The total of these is \$104,800.

Exhibit C is a listing of funds expended by the Bakers subsequent to the date of filing of the Asheboro application for educational and commercial stations.

Construction costs for educational plus commercial stations is thus \$601,907.

Exhibit D is a list of three-months' operating expenses for the educational stations, \$54,950; Exhibit E is the same compilation for the commercial stations; to wit, \$36,200. Total operating costs are \$91,150.

The total cost now required to be met by the Bakers for all construction and operation, \$693,057, is listed in Exhibit F.

As of the date of filing of the Asheboro application, required funding was the sum of the amount expended for all stations commencing on that date, plus the amount needed as of now, or a total of \$792,845. Of this, as noted in Exhibit C, expenditures to date, \$99,788.44 were supplied by the Bakers' cash flow from investment property. The Asheboro application was filed November 19, 1991. The Bakers had as of May 1, 1991, liquid assets of \$625,986.04, a total of liquid plus illiquid assets of more than \$14,500,000.00; and a net worth of in excess of \$12,000,000.00 See Balance Sheet, May 1, 1991, Exhibit G.

The next available balance sheet for the Bakers is February 1, 1992 (Exhibit H) which reveals liquid assets of \$522,636.45; total assets in excess of \$14,500,000.00 and liabilities of \$2,634,671.26, for a net worth of more than \$12,000,000.00.

The Bakers also have available at the present time liquid assets of almost \$800,000 (Exhibit J) which includes \$588,259.95 remaining to be taken down from a \$1,000,000 line of credit at the Patrick Henry National Bank of Galax, Virginia (Exhibit K), and the assurance of the bank's Vice President that an additional \$100,000 could be available if and when applied for (Exhibit L).

Radio therefore now has liquid assets available to it at least \$100,000 more than the total of expenses to be incurred in completing construction and operating all of the educational and commercial stations for which it has or is seeking authority. Moreover, as aforementioned, at the time the Asheboro application was filed, the Bakers had liquid assets of in excess of \$500,000, and a net worth of more than \$12,000,000.00. On numerous occasions, the Commission has held that an applicant with illiquid assets

1983); International Broadcasting Co., 3 FCC 2d 419 (Rev. Bd. 1966); Massillon Broadcasting Co., 22 RR 218 (1961); Springfield Television Broadcasting Corporation, 2 RR 2d 843 (Rev. Bd. 1964); Martin Karig, 30 FCC 557 (1961).² The Bakers have in illiquid assets approximately 22 times the total amount now required to complete construction and for operation of all of the stations mentioned above, and had in 1991 non-liquid assets more than 55 times the difference between liquid assets available, \$522,636.45 (Exhibit H) and total funds required, \$792,845 (Exhibits C & F).

With respect to the Bakers' net worth as of February 1992 (\$12,094,285.00), it was 15 times the total of funds required, and 45 times the total needed minus their available liquid assets. Indeed, Radio could be guilty of overkill.

CONCLUSION

Applicant Radio at the time it filed the application subject of this proceeding was eminently qualified financially to construct not only its Asheboro station as proposed, but also its other proposed educational stations and the three commercial stations for which applications had been filed. In addition to substantial liquid assets maintained by the Bakers, they held non-liquid assets in excess of \$14,000,000.00, or more than 20 times the total

² It of interest that in this Winston-Salem/Asheboro proceeding, Radio petitioned April 8, 1993 to add financial issues against Triad. The Triad Opposition filed April 26, 1993 pointed out that Mr. Watson and Dr. Watson's "non-liquid assets would yield several times the value of the required amount", citing most of the cases cited herein. Issues were not added by the Presiding Judge.

funding required, and approximately 85 times the difference between their liquid assets and estimated costs of construction.

Between the date of filing of the Asheboro application and the present date, the Bakers continued construction of several of the pending permits. In order to now complete construction of these stations and to construct the others contemplated, the Bakers have shown the availability of adequate liquid assets, plus non-liquid assets in excess of \$15,000,000.00, or 22 times the cost of completion and operation for three months without revenue.

On the basis of available liquid assets and the considerable non-liquid assets available to Radio, and in accord with Martin Kareq, supra, and its progeny, the Presiding Judge should grant this Motion for Summary Decision.

Respectfully submitted,

POSITIVE ALTERNATIVE RADIO, INC.

By Julian P. Freret
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Its Counsel

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June 9, 1993

EXHIBIT A

COST TO COMPLETE: Various Educational FMs Listed Below:**Bluefield, WV**

Erect antenna	\$ 1,000.00
Install transmitter	500.00
Lightning Protector	On Hand
Audio Equipment	2,550.00
Test & install audio equipment	6,500.00
Remote control, labor	4,050.00
Finish studio, miscellaneous	5,000.00
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	\$ 19,600.00

Salem, VA

Install & test TFT-STL	500.00
STL	On Hand
Install & test remote control	1,500.00
Transmitter - installed	
Audio equipment	4,500.00
Misc. labor	700.00
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	\$ 7,200.00

Dublin, VA

All equipment, building, tower ready, tested	
Install lightning protector	1,500.00
Satellite equipment	2,900.00
Miscellaneous & labor	1,000.00
STL	On Hand
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	\$ 5,400.00

Martinsville, VA

1-Bay antenna & tower	\$13,390.00
Balance due on transmitter	9,000.00
Additional studio equipment and labor	4,500.00
Satellite equipment	2,500.00
Lightning protector	On Hand
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	\$ 29,390.00

Winston-Salem, NC

FM Antenna - DA	\$ 14,900.00
10 kw FM transmitter	15,000.00
Co-ax cable	3,500.00
Studio audio & processor and monitors	7,500.00
AM reproof	15,000.00
Isocoupler	2,012.00
Lightning protector	890.00
Labor and testing	5,500.00
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	\$ 64,302.00

Waynesboro, VA

Tower 90'	\$ 3,000.00
STL, etc.	12,000.00
2-Bay Antenna - DA	11,020.00
Transmitter	On Hand
Remote Control	1,500.00
Audio equipment processor	5,500.00
Studio equipment	8,500.00
Cable	1,000.00
Installation	2,500.00
Satellite equipment	On Hand
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	\$ 45,020.00

Culpeper, VA (WPVB-FM)

Transmitter	\$ 15,800.00
FM antenna	14,900.00
Remote control	1,500.00
Audio processor & monitor	8,500.00
STL	12,000.00
Studio equipment	7,500.00
Cable	1,200.00
Satellite equipment	3,500.00
Installation	5,000.00
Transmitter building	2,500.00
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	\$ 72,400.00

Galax, VA (Amended CP not granted yet)

Transmitter - low power	\$ 7,575.00
Tower	3,500.00
FM antenna - 1 bay	8,990.00
Studio, audio processor & monitor	7,500.00
Transmitter building	2,500.00
Remote control	1,500.00
STL	12,000.00
Installation & labor	5,000.00

\$ 48,565.00

Blountville-Kingsport, TN (Amended CP not granted yet)

Low power 1-bay antenna	\$ 8,990.00
Transmitter	14,400.00
Audio processor & monitors	7,000.00
STL	9,500.00
Studio equipment	7,500.00
Installation & labor	2,500.00
Building & tower - lease	

Oxford, NC

Transmitter	\$ 5,000.00
Transmitter building	3,500.00
STL	12,500.00
Antenna	8,540.00
Transmission line	3,500.00
Isocoupler	2,050.00
Satellite equipment	On Hand
Engineering & labor	3,500.00
Studio audio equipment & monitors	5,500.00

\$ 44,090.00

Point Pleasant, WV

Transmitter building	\$ Lease
Tower space, studio	Lease
Transmitter	5,000.00
Transmission line	1,000.00
Antenna	8,540.00
STL	9,000.00
Audio equipment	8,500.00
Monitors	2,500.00
Miscellaneous & labor	2,500.00

\$ 37,040.00

Union City, IN

Transmitter	\$ On Hand
Tower, transmitter building & studio space	Lease
Antenna - Non-DA	8,540.00
Transmission line	1,800.00
Audio equipment & monitors	9,500.00
Installation & Labor	3,500.00
Miscellaneous	1,500.00

\$ 24,840.00

EXHIBIT B

Cost to Finish Construction of Commercial Stations

WBGS-AM, Point Pleasant, WV (construction virtually completed)

Finish wiring and testing	\$ 2,500.00
Finish proof	5,000.00
Miscellaneous	1,200.00

\$ 8,700.00

WBYG-FM, Point Pleasant, WV

Transmitter Building	\$ 3,000.00
Transmitter	13,500.00
Antenna & Cable	12,500.00
STL	6,000.00
Studio Equipment & Labor	5,000.00
150' tower	5,100.00

\$ 45,100.00

WTGR-FM, Union City, OH

Tower	\$ On Hand ¹
Antenna	15,000.00
Transmitter	13,500.00
Line	2,500.00
Audio, studio equipment & monitors	7,500.00
Installation of antenna	1,500.00

\$ 40,000.00

WCBX-AM, Fieldale, VA

Program tested granted May 1993	
Construction completed	\$ 0.00

WCQR-AM, Fairlawn, VA (Site under zoning process)

Equipment on hand	
Additional equipment	\$ 2,500.00
Tower erection & labor	6,000.00
Transmitter building	2,500.00
Antenna proof by owner	0

\$ 11,000.00

TOTAL

\$ 104,800.00

¹ WTGR(FM) will be located on the WBNN tower.

EXHIBIT C

EXHIBIT C**Funds Expended Subsequent to Filing of Asheboro Application
November 17, 1991****Commercial:
Fieldale, VA**

STL used transmitter, receiver, dishes & cable	\$ 4,000.00
Remote control	1,200.00
Sampling cable & LTU	582.00
Nighttime phaser fabricated from used parts	6,235.00
Isocoupler for STL	895.00
Antenna field measurements	2,100.00
Directional nighttime analysis & field work	6,366.49
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	\$ 21,378.49

Point Pleasant, WV

Transmitter building & tower fences	4,500.00
Two towers	7,028.00
Coax cable	1,330.00
Installation of towers & ground wire	4,000.00
Copper wire	2,948.00
Phaser and LTU fabricated from used parts	5,006.00
Miscellaneous and labor	1,200.00
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	\$ 26,012.00

Educational FM:

Bluefield, WV

Lightning protection	\$ 733.00
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Salem, VA

STL equipment	\$ 8,263.70
FM transmitter	12,500.00
Transmitter installation and line	550.00
Portable transmitter building	767.00
Transmission line	737.55
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	\$ 22,818.25

Dublin, VA

250 w transmitter	\$ 6,500.00
Remote control	1,250.00
STL equipment	8,263.70
Labor	1,500.00
Studio equipment	7,500.00
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	\$ 25,013.70

Martinsville, VA

Transmitter building	3,100.00
Polyphaser and installation	733.00
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	\$ 3,833.00

Total Expended (November 1991-June 1993)	\$ 99,788.44
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The source of that amount was cash flow from Baker properties listed on Exhibits F, G & H, which were available to Radio as needed.

EXHIBIT D

THREE MONTHS OPERATING COSTS - EDUCATIONAL FM STATIONS - NO INCOME

(First three months minimum time 5 hours per day, six days per week - 90 days)

Location	Payroll & FICA	Rent	Utilities	Supplies	Misc.	Total
Bluefield, WV	\$ 2100	N/C	\$ 1200	\$ 100	\$ 250	\$3650
Salem, VA	2100	N/C	1500	100	250	3950
Dublin, VA	2100	N/C	750	100	250	3200
Martinsville, VA	2100	N/C	1200	150	250	3700
Hickory, NC	On air for five years; does not apply. Decided not to build power increase. See Statement					
Winston-Salem, NC	2100	N/C	2000	200	250	4550
Waynesboro, VA	2100	N/C	1200	100	250	3650
Culpeper, VA	2100	1500	1750	200	250	5800
Galax, VA	2100	900	600	150	250	4000
Blountville- Kingsport, TN	2100	1500	500	150	250	4500
Asheboro, NC	2100	1200	1250	300	250	5100
Oxford, NC	2100	1400	1500	200	250	5450
Union City, IN	2100	N/C	1200	150	250	3700
Point Pleasant, WV	2100	N/C	1200	150	250	3700
TOTAL						\$54,950

EXHIBIT E

THREE MONTHS OPERATING COSTS - COMMERCIAL STATIONS - NO INCOME

Station & Location	Payroll & FICA	Rent	Utilities	Supplies	Misc	Total
Point Pleasant, WV WBGS-AM Daytime; min. 8 hrs per day	\$ 3,300	\$ 1800	\$ 1500	\$ 150	\$ 250	\$ 7000
Fairlawn, VA WCQR-AM Daytime; min 8 hrs per day	3,300	1200	1200	150	250	6100
Fieldale, VA WCBX-AM Fulltime; min 10 hrs per day	4750	1800	900	200	250	7900
Point Pleasant, WV WBYG-FM Min 12 hrs/day	4750	1500	1200	200	250	7900
Union City, OH WTGR-FM 12 hrs/day	4750	600	1500	200	250	7300
				TOTAL		\$36,200

EXHIBIT F

EXHIBIT F**FINANCIAL SUMMARY - FUNDS NEEDED**

(1)	Estimate to Complete Construction of non-commercial stations less Hickory, NC	\$ 497,107.00
(2)	Estimate of 3 months operating cost without income for non-commercial stations - minimum hours	54,950.00
(3)	Estimate to complete construction of commercial broadcast stations	104,800.00
(4)	Estimate of 3 months operating cost without income for commercial stations	36,200.00
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		\$ 693,057.00

EXHIBIT G

CONFIDENTIAL

VERNON H. BAKER AND VIRGINIA L. BAKER

BALANCE SHEET
May1, 1991

*Vernon H Baker
Virginia L Baker*